

# **STREAMLINED SALES AND USE TAX AGREEMENT**

**Kenneth W. Thorson**  
**Tax Commissioner**  
**Virginia Department of  
Taxation**

**July 15, 2003**

# Background of SSTP

- Response to industry objections by remote sellers to register and collect sales tax
- If state systems are simplified, more likely that Congress will overturn prohibitions on requiring remote sellers to collect the tax
- Developed as a coordinated effort between NGA, NCSL, FTA and MTC

# Background of SSTP

- Began in response to Advisory Commission on Electronic Commerce
- Ultimate goal is collection of tax by remote mail order, telephone and Internet sellers
- Until Congress acts, even if a state adopts the Agreement, registration and tax collection by remote sellers will remain voluntary
- SSTP is **not** an instant revenue raiser

# How Does the SSTP Work?

- States that adopt the terms of the Agreement will become member states
- Adopting the Agreement typically requires legislation to conform state law to the terms of the Agreement
- The first 10 states that join will form the Governing Board of the program which will make subsequent decisions on definitions, etc
- Agreement does not become effective until at least 10 states representing 20% of the population petition for membership

# How Virginia Got to This Point

- SSTP was created in 2000
- States could either participate or observe – Virginia chose to do neither
- Participating states worked to develop an Agreement and the rules and processes to be used once the program was implemented
- Virginia was not at the table for any of the discussions and decisions

# Overall Impact on Virginia

SSTP Agreement closely aligns with Virginia sales tax

- Virginia is more closely in-line with mainstream sales and use tax policy

Current Virginia Sales Tax consistent with SSTP objectives

- State level administration of sales and use tax
- Uniformity in state and local tax bases
- Simplification of state and local tax rates

# Substantial Compliance Required

- SSTP Agreement requires Implementing States to adopt uniform definitions and procedures
- Future changes to definitions and procedures to be determined by Governing Board
- Agreement applies to both intrastate and Interstate transactions
- States will separately determine taxability of transactions and items based on uniform definitions

# Specific Impact on Virginia Sales Tax

- Generally, adoption of Agreement will require less change in Virginia than in some other states
- However, adoption of Agreement will still require substantial changes to Virginia sales tax law
- While substantial changes to the Agreement at this point are unlikely, Virginia will urge changes on some important issues
- SSTP Agreement is still undergoing changes and it is impossible to predict the provisions of the final document

# General Sourcing Rules

## SSTP Agreement Requirements

- Sale is sourced to the dealer's location if delivery occurs at the seller's place of business
- If delivery does not occur at seller's place of business, sale is sourced using destination-based rules
- If seller lacks sufficient information to apply the destination-based rules, sale is sourced to address from which goods were shipped

# General Sourcing Rules

## Virginia Sales Tax Requirements

- Sale is sourced to the dealer's location if delivery occurs at the seller's place of business
- For intrastate sales, sale is sourced to the city or county in which the sale is made without regard to the location of the possible use by the purchaser
- For interstate sales, sale is sourced to the point of delivery

# General Sourcing Rules

## Impact on Virginia Sales Tax

- Minimal impact on overall sales tax revenue
- Destination-based rule would shift revenues between localities
- Requiring small “main street” type businesses to allocate local sales tax based on point of delivery may impose a significant administrative burden on these businesses

# General Sourcing Rules

## Virginia Options

- Lobby SSTP to revisit the issue and allow states to use a dual approach with an origin-based rule for intrastate sales and destination based rule for interstate sales
- Change Virginia law to conform to SSTP sourcing rules

# Definition of Delivery Charges

## SSTP Agreement Definition

- Charges by the seller for preparation and delivery to a location designated by the purchaser including, but not limited to, transportation, shipping, postage, handling, crating and packing
- Can exclude separately stated charges for delivery by direct mail

# Definition of Delivery Charges

## Virginia Sales Tax Requirements

- Charges for delivery from the seller to the purchaser, commonly known as “transportation-out,” and postage or common carrier charges.
- Transportation and delivery charges do not include charges from a manufacturer to a retailer’s place of business relative to purchases for resale, nor do they include handling charges

# Definition of Delivery Charges

## Virginia Options

- SSTP Agreement definition is broader
- Continuing Virginia exemption for delivery charges using SSTP definition would result in revenue decrease
- Repealing Virginia exemption would result in revenue increase

# OTC Drugs and Grooming and Hygiene Products

- SSTP Agreement definition of OTC drugs is nearly identical to Virginia definition of nonprescription drug
- Separate definition of Grooming and Hygiene Products allows Virginia to either tax or exempt these items
- Virginia currently exempts very few grooming and hygiene products
- Separate definition would allow Virginia to exempt OTC drugs and tax grooming and hygiene products

# Food and Food Products & Prepared Foods

SSTP Agreement provides multiple definitions of food

- Alcoholic beverages
- Candy
- Dietary supplement
- Food and food ingredients
- Prepared food
- Soft drinks
- Tobacco

# Food and Food Products & Prepared Foods

- Virginia Food Tax Reduction Program (“FTRP”) defines “food for human consumption” as the same as “food” is defined in the Food Stamp Act, excluding seeds and plants
- SSTP Agreement makes an exception to the “one rate” rule for food and drugs
- Multiple definitions in Agreement would allow Virginia to craft an exemption that closely matches current FTRP in both content and tax rate

# Other Provisions that May Impact Virginia

## Accelerated Sales Tax

- SSTP Agreement limits states from requiring more than one return per month per dealer
- Virginia's Accelerated Sales Tax should not be considered a return, it is an estimated payment

## Refunds for Bad Debts

- SSTP Agreement allows refund if bad debt refund exceeds tax liability
- Virginia limits bad debt refund to tax liability and requires carryover of excess

# Other Provisions that May Impact Virginia

## Rounding

- SSTP Agreement requires states to have an algorithm that carries tax computation of 3rd decimal point
- Tax must be rounded up whenever 3rd decimal point is greater than 4
- Bracket systems are prohibited
- Virginia will have to abandon use of current bracket system

# Next Steps

Virginia needs to continue to participate in SSTP

- Both Legislative and Executive branches
- SSTP Agreement is a “working document” that is still undergoing change

Monitor Congressional actions

- Until Congress acts to require out-of-state sellers to collect tax, minimal revenue gain from enacting SSTP Agreement
- Now any registration and tax collection is voluntary